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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,289	11/28/2000	David M. Bankers	L294.12-0010	7557
164	7590	07/21/2005	EXAMINER	
KINNEY & LANGE, P.A. THE KINNEY & LANGE BUILDING 312 SOUTH THIRD STREET MINNEAPOLIS, MN 55415-1002				VU, NGOC K
ART UNIT		PAPER NUMBER		
		2611		

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/724,289	BANKERS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ngoc K. Vu	2611	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 31 January 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/31/05 has been entered.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (US 20030149988 A1).

Regarding claim 1, Ellis discloses a method of guest-selected recording of television programs in an entertainment system (see figures 2a-d) having a head end (16, 21) and a plurality of guest terminals (22) connected by a distribution system (via 20), the method comprising:

transmitting, from the headend to a guest terminal, a schedule (program guide) containing both scheduled programs available for viewing and recording and previously

recorded television programs available for time-shifted viewing (program guide contains programs scheduled for recording and viewing and previously recorded programs stored in remote server 24 for playback on-demand – see 0064; 0125-0126 and 0156);

transmitting, from the guest terminal to the head end, program recording selection data representing a program selected by a guest for recording (see 0076 and 0084);

creating a digital file representing the program selected (encoding program as digital file – see 0089);

storing the digital file (in storage 15 of remote server 24 – see 0079; 0089);

updating the schedule of television programs to include the program corresponding to the digital file (it must be understood that the program guide is updated in order to schedule appropriately the programs including the program corresponding to the digital file; see 0089 and 0120); transmitting the schedule as updated to the guest terminal (see 0097 and 0121);

transmitting, from the guest terminal to the head end, data requesting playback of the program selected for recording based upon a selection of that program from the schedule as updated (user transmits a request for playback a selected program for recording – 0151, 0156);

playing back the program selected based upon the digital file representing the program selected (the remote server 24 may playback the selected program in response to playback requested from user – see 0156); and

transmitting the program being played back to the guest terminal (see 0156 and 0157).

Regarding claim 8, Ellis discloses a method of guest-selected recording of television programs in an entertainment system (see figures 2a-d) having a head end (16, 21) and a plurality of guest terminals (22) connected by a distribution system (via 20), the method comprising:

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transmitting, to a guest terminal, a schedule (program guide) containing both scheduled programs available for viewing and recording and previously recorded television programs available for time-shifted viewing (program guide contains programs scheduled for recording and viewing and previously recorded programs stored in remote server 24 for playback on-demand – see 0064; 0125-0126 and 0156);

receiving, from the guest terminal, program selection data representing in a scheduled program selected for recording (see 0076 and 0084);

digitally storing the program selected when it is broadcast (in storage 15 of remote server 24 – see 0079; 0089);

updating the schedule to include the program selected as one of the previously recorded programs (it must be understood that the program guide is updated in order to schedule appropriately the programs including the previously recorded program - see 0089; 0120; 0156 and figures 11b-11c); transmitting the schedule as updated to the guest terminal (see 0097 and 0121);

receiving, from the guest terminal request data based on the previously recorded programs contained in the program schedule (receiving request from user for playback a previously recorded program contained in the program guide – see 0156);

converting, in response to the playback request data, the digitally stored program to television signals (converting program to suitable video signal for distribution - see 0077); and transmitting the television signals to the guest terminal (see 0157).

Regarding claims 15, 24, 29, Ellis discloses an entertainment system comprising:

a plurality of guest terminals (22);

a distribution system (20) connected to the guest terminals;

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a digital content server (24) for storing entertainment content in digital files and supplying to the distribution system television signals based upon the digital files (see 0077 and 0089);

a receiver (within 21) for receiving television programs on a plurality of channels and supplying the programs to the distribution system (see 0064-0065);

an encoder (within 11) for converting (encoding) a selected television program on one of the channels to digital file representing the selected program and transferring the digital file to the digital content server (storage 15 in server 24) for storage (see 0088; 0089); and

a computer (11) which communicates with the guest terminals (22) over the distribution system (20), the computer providing the guest terminals with a schedule (program guide) listing both the television programs available for viewing and recording and previously recorded programs available for time-shifted viewing (program guide contains programs scheduled for recording and viewing and recorded programs stored in remote server 24 – see 0064 and 0125-0126), controlling operation of the encoder based upon a selection by a guest of a program to be recorded (in response to request for recording a selected program) and controlling operation of the digital content server based upon a selection by a guest of a previously recorded program for time-shifted viewing (in response to request for playback a previously recorded program) (see 0077, 0088, 0089 and 0156-0157).

Regarding claim 21, Ellis discloses a method of providing guest-selected viewing of time-shifted television programs in an entertainment system (see figures 2a-d) having a head end (16, 21) and a plurality of guest terminals (22) connected by a distribution system (via 20), the method comprising:

tuning to channels on which scheduled television programs selected for time-shifting are carried (see 0088);

encoding the program into a digital format to create a digital file (see 0088 and 0089);  
storing the digital files at the headend (in storage 15 of remote server 24 in facility 16 – see 0079; 0089);

transmitting, from the headend to a guest terminal, an interactive schedule (program guide) listing both scheduled programs available for viewing and previously recorded television programs available for time-shifted viewing based upon the digital files stored (program guide contains programs scheduled for viewing and previously recorded programs stored in remote server 24 for playback on-demand – see 0064 and 0125-0126);

transmitting, from the guest terminal to the headend, data requesting playback of one of the time-shifted television programs displayed (receiving request transmitted from user for playback a selected program stored in the remote server 24 – see 0156);

playing back the time-shifted program requested based upon the stored digital file representing that program (the remote server 24 may playback the requested recorded program in response to playback requested from user – see 0156); and

transmitting the time-shifted program being played back to the guest terminal (see 0156 and 0157).

Regarding claim 22, Ellis discloses a method of providing time-shifted television programs in an entertainment system (see figures 2a-d) having a head end (16, 21) and a plurality of guest terminals (22) connected by a distribution system (via 20), the method comprising:

digitally storing television programs (in storage 15 of remote server 24), for time-shifted viewing (i.e., playback on-demand), when they are broadcast (see 0079, 0089 and 0157);

transmitting, to a guest terminal, a schedule (program guide) containing both scheduled programs available for viewing and recording, and time-shifted television programming based

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upon television programs digitally stored (program guide contains programs scheduled for recording and viewing and recorded programs stored in remote server 24 – see 0064 and 0125-0126);

receiving, from the guest terminal, playback request data selecting one of the digitally stored time-shifted television programs (receiving request from user for playback a selected program stored in the remote server 24 – see 0156);

converting, in response to the playback request data, the selected digitally stored time-shifted television program to television signals (converting program to suitable video signal for distribution - see 0077); and

transmitting the television signals to the guest terminal (see 0157).

Regarding claims **2, 9 and 23**, Ellis discloses tuning to a channel on which a television program is carried; and encoding the program into a digital format to create a digital file (see 0075, 0088 and 0089).

Regarding claims **3 and 11**, Ellis shows creating a recording schedule based upon program recording selection data received (see 0125-0126).

Regarding claim **4**, Ellis discloses creating a digital file (directory) is based upon the recording schedule (see 0145).

Regarding claims **5 and 10**, Ellis discloses associating with the digital file an identification of the guest terminal (user1, user 2...etc) that provided the program recording selection data (see figure 4 and 0082; 0091).

Regarding claims **6 and 13**, Ellis shows that the schedule of television programs is an interactive program guide (see figures 14b, 14d, 14e and 15a-18c).

Regarding claims **7, 14 and 17**, Ellis discloses that the program recording selection data is produced based upon a selection (i.e., recording a program) made on the interactive program guide (see 0134).

Regarding claim **12**, Ellis discloses digitally storing the program is based upon the recording schedule (see 0079 and 0089).

Regarding claims **16 and 25**, Ellis discloses that the encoder is an array including a plurality of tuners for tuning to the channels and an encoding device connected to each tuner (see 0088-0089).

Regarding claim **18**, Ellis shows that the interactive program guide includes information about previously recorded television programs (see 0145, 0156).

Regarding claims **19 and 26**, Ellis discloses that in response to a request from a guest terminal, the computer causes the digital content server (24) to supply television signals based upon the digital file representing the selected program (see 0089; 0091).

Regarding claims **20 and 27**, Ellis discloses that the computer creates a recording schedule for the encoder based upon data from the guest terminals representing selections by guests of programs to be recorded (see 0088; 0125-0126).

Regarding claim **28**, Ellis discloses a method of providing guest-selected viewing of time-shifted television programs in an entertainment system (see figures 2a-d) having a head end (16, 21) and a plurality of guest terminals (22) connected by a distribution system (via 20), the method comprising:

creating a recording schedule of a television programs to be recorded for time-shifted viewing (see 0125-0126);

encoding television programs based upon the recording schedule to create a digital files representing time-shifted television programs (see 0088 and 0089);

storing the digital files at a headend (in storage 15 of remote server 24 in facility 16 – see 0079; 0089);

transmitting, from the headend to a guest terminal, an interactive schedule (program guide) listing both scheduled programs available for viewing and recording and time-shifted television programs available for viewing based upon the digital files stored (program guide contains programs scheduled for viewing and previously recorded programs stored in remote server 24 for playback on-demand – see 0064 and 0125-0126);

transmitting, from the guest terminal to the headend, a request to view one of the time-shifted television programs (receiving request transmitted from user for playback a selected program stored in the remote server 24 – see 0156); and

transmitting, from the head end to the guest terminal, the time-shifted television program requested based upon the digital file representing that time-shifted television program (the selected program is transmitted to the user from the remote server 24 in facility 16 - see 0156 and 0157).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ngoc K. Vu  
Primary Examiner  
Art Unit 2611

July 14, 2005